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North Carolina Railroad
1887

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CHARTER

AND

AMENDMENTS THERETO

OF THE

North Carolina Railroad Co.,

WITH THE

BY-LAWS,

MORTGAGE AND LEASE.



RALEIGH :

EDWARDS & BROUGHTON, POWER PRINTERS AND BINDERS.

1887.

CHARTER

AND

AMENDMENTS THERETO

OF THE

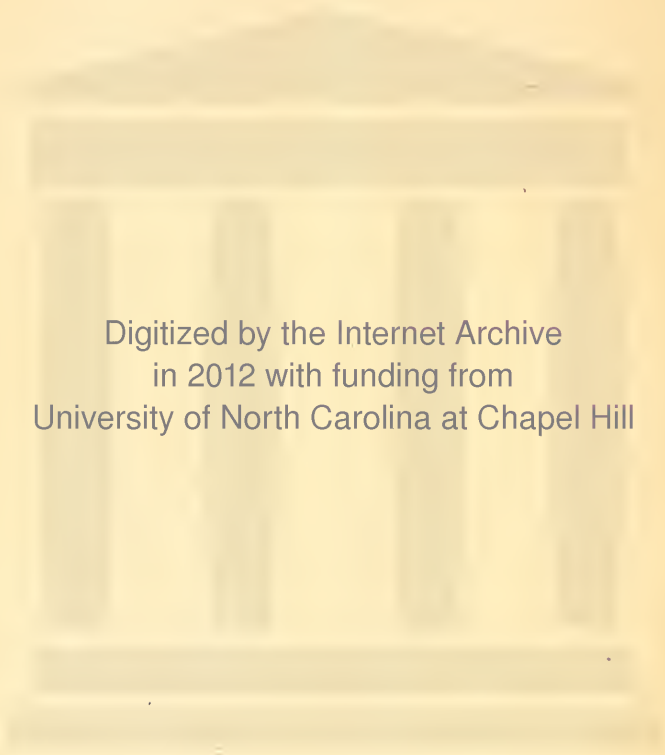
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CHARTER

OF THE

North Carolina Railroad Co.

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CHARTER.

SECTION 1. *Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same,* That for the purpose of effecting a railroad communication between the Wilmington and Raleigh Railroad, where the same passes over the Neuse river, in the county of Wayne, and the town of Charlotte, in this State, the formation of a corporate company, with a capital stock of three millions of dollars, is hereby authorized, to be called "The North Carolina Railroad Company," and when formed in compliance with the conditions hereinafter prescribed, to have a corporate existence as a body politic in perpetuity.

SEC. 2. That the said company be, and the same is hereby, authorized to construct a railroad from the Wilmington and Raleigh Railroad, where the same passes over Neuse river, in the county of Wayne, *via* Raleigh, and thence the most practicable route *via* Salisbury, in the county of Rowan, to the town of Charlotte, in the county of Mecklenburg.

SEC. 3. That for the purpose of creating the capital stock of said company, the following persons be, and the same are hereby appointed commissioners, viz.: Joseph H. Wilson, of Charlotte; William C. Means, of Concord; John B. Lord, of Salisbury; Richard Washington, of Waynesboro; John McLeod, of Smithfield; George W. Mordecai, Raleigh; Henry B. Elliott, Randolph; James M. Leach, Lexington; John M. Morehead, Greensboro; William A. Graham, Hillsboro, Nathan A. Stedman, Pittsboro; Edward B. Dudley, Wilmington; Alonzo P. Jerkins, Newbern; Samuel P. Hargrave, Lexington; Archibald G. Carter, Davie. That it shall be lawful to open Books in the town Wilmington,

under the direction of William C. Bettencourt, W. A. Wright, Daniel B. Baker, Henry T. Nutt, P. K. Dickinson, Gilbert Potter and William Peden, or any three of them ; at Charlotte, under the direction of David Parks, John A. Young, Jas. W. Osborne, Joseph H. Wilson, William Elms and William F. Davidson, or any three of them ; at Raleigh, under the direction of Josiah O. Watson, Duncan K. McRae, William W. Holden, Thomas J. Lemay and Charles L. Hinton, or any three of them ; at Gaston, under the direction of Edmund Wilkins, Willis Sledge, Benjamin W. Edwards and James Gresham, or any three of them ; at Warrenton, under the direction of William Eaton, Daniel Turner, Peter R. Davis, William Plummer and Thomas T. Twitty, or any three of them ; at Ridgeway, under the direction of George D. Baskerville, Weldon N. Edwards, Michael Collins and Alexander B. Hawkins, or any three of them ; at Henderson, under the direction of John S. Eaton, John D. Hawkins, William Uandriers, Demetrius E. Young, or any three of them ; at Franklinton, under the direction of Edward T. Fowlkes, William H. Simms, or any three of them ; at Hillsboro, under the direction of D. F. Long, John Berry, Edward Strudwick and Col. Cadwallader Jones, or any three of them ; at Chapel Hill, under the direction of Elisha Mitchell, William H. Merritt, Jesse Hargrave and P. H. McDade, or any three of them ; at Ashboro, under the direction of Henry B. Elliott, Alexander Hogan, Jesse Harper, Jonathan Worth, or any three of them ; at Greensboro, under the direction of John M. Morehead, John A. Gilmer, Wilson S. Hill, John A. Mebane and Jesse Lindsay, or any three of them ; at Jamestown, under the direction of Richard Mendenhall, George C. Mendenhall, S. G. Coffin, J. W. Field, or any three of them ; at Haywood, under the direction of Robert Faucett, P. Evans and John Williams ; at Pittsboro, under the direction of J. A. Stedman, Green Womack, S. McClennahan and Joseph Ramsay, or any three of them ; at Carthage, under the direction of A. Currie, John

M. Morrison, Cornelius Dowd, and J. D. McNeill, or any three of them ; at Lexington, under the direction of William R. Holt, James M. Leach, Charles L. Paine, or any three of them ; at Smithfield, under the direction of John McLeod, Bythan Bryan, L. B. Sanders, Baldy Sanders, Thaddeus W. Whitley, or any three of them ; at Salisbury, under the direction of Archibald H. Caldwell, Charles F. Fisher, Horace L. Robards, Maxwell Chambers and Thomas L. Cowan, or any three of them : at Statesville, under the direction of Theophilus Falls, William F. Cowan, Thomas A. Allison, or any three of them ; at Concord, under the direction of Rufus Barringer, Kiah P. Harris, Daniel Coleman, R. W. Foard and Caleb Phifer, or any three of them ; at Mocksville, under the direction of John A. Lillington, Gustavus A. Miller, Archibald G. Carter and Lemuel Bingham, or any three of them ; at Salem, under the direction of Francis Fries, John Vogler, Thomas J. Wilson, John Blackburn, or any three of them ; whose duty it shall be to direct the opening of books for subscription of stock, at such times and places, and under the direction of such persons as they, or a majority of them, may deem proper ; and the said commissioners shall have power to appoint a chairman of their body, treasurer, and all other officers, and to sue for and recover all sums of money that ought, under this act, to be received by them.

SEC. 4. That all persons who may hereafter be authorized to open books for subscription of stock by the commissioners herein appointed for that purpose, shall open said books at any time after the ratification of this act, twenty days' previous notice being given in some one or more of the public newspapers in this State ; and that said books, when opened, shall be kept opened for the space of thirty days at least, and as long thereafter as the commissioners first above named shall direct ; and that all subscription of stock shall be in shares of one hundred dollars, the subscriber paying

at the same time of making such subscription five dollars on each share thus subscribed, to the person or persons authorized to receive such subscription ; and in case of failure to pay said sum, all such subscriptions shall be void and of no effect ; and upon closing the books, all such sums as shall have been thus received of subscribers on the first cash instalment, shall be paid over to the General Commissioners named in the third section of this Act by the persons receiving them ; and for failure thereof such person or persons shall be personally liable to said General Commissioners before the organization of said company and to the company itself after its organization, to be recovered in the Superior Court of law within the State, in the county where such delinquent resides, or if he reside in any other State, then in any court in such State having competent jurisdiction : The said General Commissioners shall have power to call on and require all persons empowered to receive subscriptions of stock at any time and from time to time, as a majority of them may think proper, to make a return of the stock by them respectively received, and to make payment of all sums of money made by the subscribers that all persons receiving subscriptions of stock shall pass a receipt to the subscriber or subscribers for the payment of the first instalment, as heretofore required to be paid ; and upon their settlement with the General Commissioners as aforesaid, it shall be the duty of the said General Commissioners in like manner to pass their receipt for all sums thus received, to the persons from whom received ; and such receipts shall be taken and held to be good and sufficient vouchers to the persons holding them : That subscriptions of stock thus received to an amount not exceeding.

SEC. 5. It shall be the duty of said General Commissioners to direct and authorize the keeping open of books for the subscription of stock in the manner above described, until the sum of one million of dollars shall have been sub-

scribed to the capital stock of said company ; and as soon as the said sum of one million dollars shall have been subscribed, and the first installment of five dollars per share on said sum shall have been received by the General Commissioners, said company shall be regarded as formed, and the said commissioners, or a majority of them, shall sign and seal a duplicate declaration to that effect, with the names of the subscribers appended, and cause one of the said duplicates to be deposited in the office of the Secretary of State, and thenceforth, from the closing of the books of subscription as aforesaid, the said subscribers to the stock shall form one body politic and corporate, in deed and in law, for the purposes aforesaid, by the name and style of "The North Carolina Railroad Company."

SEC. 6. That whenever the sum of one million of dollars shall be subscribed in manner and form aforesaid, the subscribers, their executors, administrators and assigns, shall be, and they are hereby, declared to be incorporated into a company by the name and style of "The North Carolina Railroad Company;" and by that name shall be capable in law and equity, of purchasing, holding, selling, leasing and conveying estates, real, personal and mixed, and acquiring the same by gift or devise, so far as shall be necessary for the purposes embraced within the scope, object and intent of their charter and no further; and shall have perpetual succession, and by their corporate name may sue and be sued, plead and be impleaded in any Court of Law and Equity in the State of North Carolina ; and may have and use a common seal, which they may alter and renew at pleasure ; and shall have and enjoy all other rights and immunities which other corporate bodies may, and of right do exercise ; and may make all such by-laws, rules and regulations as are necessary for the government of the corporation, or effecting the object for which it is created, not inconsistent with the Constitution and laws of the United States and the State of North Carolina.

SEC. 7. That notice of process upon the principal agents of said company, or the President or any of the Directors thereof, shall be deemed and taken to be due and lawful notice of service of process upon the company, so as to bring it before any court within the State of North Carolina.

SEC. 8. That as soon as the sum of one million of dollars shall have been subscribed in manner aforesaid, it shall be the duty of the General Commissioners, appointed under the third section of this Act, to appoint a time for the stockholders to meet at Salisbury, in Rowan county, which they shall cause to be previously published, for the space of thirty days, in one or more newspapers, as they may deem proper, at which time and place the stockholders in person or proxy, shall proceed to elect the directors of the company, and to enact all such regulations and by-laws as may be necessary for the government of the corporation and the transaction of its business: The persons elected directors at this meeting shall serve such period, not exceeding one year, as the stockholders may direct; and at this meeting the stockholders shall fix on the day and place or places where the subsequent election of directors shall be held; and such elections shall henceforth be annually made; but if the day of the annual election should pass without any election of directors, the corporation shall not be thereby dissolved, but it shall be lawful on any other day to hold and make such election in such manner as may be prescribed by a by-law of the corporation.

SEC. 9. That the affairs of the company shall be managed and directed by a general board, to consist of twelve directors, to be elected by the stockholders from among their number at their first and subsequent general annual meetings, as prescribed in section eight of this act.

SEC. 10. That the election of directors shall be by ballot, each stockholder having as many votes as he has shares in the stock of said company ; and the person having a majority of all the votes polled shall be considered as duly elected.

SEC. 11. That the President of the company shall be elected by the directors from among their number, in such a manner as the regulations of the company shall prescribe.

SEC. 12. That at the first general meeting of the stockholders, directed to be called under section eight of this act, a majority of all the shares subscribed shall be represented before proceeding to business, and if a sufficient number do not appear on the day appointed, those who do attend shall have power to adjourn from time to time until a regular meeting shall be thus formed ; and at such meeting the stockholders may provide, by a by-law, as to the number of stockholders and the amount of stock to be held by them, which shall constitute a quorum for transacting business at all subsequent regular occasional meetings of stockholders and directors.

SEC. 13. That at all elections, and upon all votes taken in any general meeting of the stockholders upon any by-law or any of the affairs of said company, each share of stock shall be entitled to one vote, and that any stockholder in said company may vote by proxy ; and proxies may be verified in such manner as the stockholders by by-laws may prescribe.

SEC. 14. That the General Commissioners shall make their return of the shares of stock subscribed for, at the first general meeting of stockholders, and pay over to the directors elected at said meeting, or their authorized agent,

all sums of money received from subscribers, and for failure therefor, shall be personally liable to said company, to be recovered at the suit of said company, in any of the Superior Courts of law in this State, within the county where such delinquent or delinquents may reside, and in like manner from said delinquent or said delinquents, executors or administrators, in case of his or their death.

SEC. 15. That the Board of Directors may fill all vacancies which may occur in it during the period for which they have been elected, and in the absence of the President may fill his place by electing a President *pro tempore* from among their number.

SEC. 16. That all contracts or agreements, authenticated by the President and Secretary of the Board of Directors, shall be binding on the company without a seal, or such a mode of authentication may be used as the company, by their by-laws, may adopt.

SEC. 17. That the company shall have power and may proceed to construct, as speedily as possible, a railroad with one or more tracks, to be used with steam power, which shall extend from the Wilmington and Raleigh Railroad, where the same passes over Neuse river, in the county of Wayne, *via* Raleigh and Salisbury, to the town of Charlotte, in Mecklenburg county; said company may use any section of the railroad constructed by them before the whole of said road shall be completed.

SEC. 18. That the said company shall have the exclusive right of conveyance or transportation of persons, goods, merchandise and produce over the said railroad, to be by them constructed, at such charges as may be fixed on by a majority of the directors.

SEC. 19. That the said company may, when they see fit, farm out their right of transportation over said railroad, subject to the rules above mentioned ; and said company and every person who may have received from them the right of transportation of goods, wares and produce on the said railroad, shall be deemed and taken to be a common carrier, as respects all goods, wares, produce and merchandise entrusted to them for transportation.

SEC. 20. That the Board of Directors may call for the payment of the sums subscribed as stock in said company in such instalments as the interest of said company may, in their opinion require ; the call for each payment shall be published in one or more newspapers in this State for the space of one month before the day of payment ; and on failure of any stockholder to pay each instalment as thus required, the directors may sell at public auction, on a previous notice of ten days for cash, all the stock subscribed for in said company, by such stockholder, and convey the same to the purchaser at said sale ; and if said sale of stock do not produce a sum sufficient to pay off the incidental expenses of the sale, and the entire amount owing by such stockholder to the company for such subscription of stock, then and in that case the whole of such balance shall be held and taken as due at once to the company, and may be recovered of such stockholder or his executors, administrators or assigns, at the suit of said company, either by summary motion in any court of superior jurisdiction in the county where the delinquent resides, on a previous notice of ten days to said subscriber, or by the action of assumpsit in any Court of competent jurisdiction, or by a warrant before a Justice of the Peace, where the sum does not exceed one hundred dollars ; and in all cases of assignment of stock, before the whole amount has been paid to the company, then for all sums due on such stock, both the

original subscribers, and the first and all subsequent assignees shall be liable to the company, and the same may be recovered as above described.

SEC. 21. That the debt of stockholders, due to the Company for stock therein, either as original proprietor or as first or subsequent assignee, shall be considered as of equal dignity with judgments in the distribution of assets of a deceased stockholder, by his legal representatives.

SEC. 22. That said company shall issue certificates of stock to its members ; and said stock may be transferred in such manner and form as may be directed by the by-laws of the company.

SEC. 23. That the said company may, at any time, increase its capital to a sum sufficient to complete said road, not exceeding ———— dollars, either by opening books for new stock or by selling such new stock, or by borrowing money on the credit of the company, and on the mortgage of its charter and works ; and the manner in which the same shall be done in either case, shall be prescribed by the stockholders at a general meeting.

SEC. 24. That the Board of Directors shall once in every year, at least, make a full report on the state of the company, and its affairs to a general meeting of the stockholders, and oftener if required by a by-law, and shall have power to call a general meeting of the stockholders, when the Board may deem it expedient ; and the company may provide, in their by-laws, for occasional meetings being called, and prescribe the mode thereof.

SEC. 25. That the said company may purchase, have and hold, in fee, or for a term of years, any land, tenements, or hereditaments, which may be necessary for the said road, or

the appurtenances thereof, or for the erection of depositories, storehouses, houses for the officers, servants or agents of the company, or for workshops or foundries, to be used for the said company; or for procuring stone or other materials necessary to the construction of the road, or for effecting transportation thereon, and for no other purposes whatever.

SEC. 26. That the company shall have the right, when necessary, to conduct the said road across or along any public road or water course: *Provided*, That the said company shall not obstruct any public road, without constructing another equally as good and as convenient, nor without making a draw in any bridge of said road, which may cross a navigable stream, sufficient for the passage of vessels navigating such stream, which draw shall be opened by the company for the free passage of vessels navigating such stream.

SEC. 27. That when any lands or right of way may be required by said company, for the purpose of constructing their road, and for the want of agreement as to the value thereof, or from any other cause the same cannot be purchased from the owner or owners, the same may be taken at a valuation to be made by five commissioners, or a majority of them, to be appointed by any court of record, having common law jurisdiction in the county where some part of the land or right of way is situated. In making the said valuation, the said commissioners shall take into consideration the loss or damage which may accrue to the owner or owners in consequence of the land or the right of way being surrendered, and the benefit and advantage he, she, or they may receive from the erection or establishment of the railroad or work, and shall state particularly the value and amount of each; and the excess of loss and damage, over and above the advantage and benefit, shall form the measure of valuation of

the said land or right of way: *Provided, nevertheless*, that if any person or persons over whose land the road may pass, should be dissatisfied with the valuation of said commissioners, then and in that case, the person or persons so dissatisfied may have an appeal to the Superior court, in the county where the said valuation has been made, or in either county in which the land lies, when it may lie in more than one county, under the same rules, regulations and restrictions as in appeals from judgments of Justices of the Peace.

The proceedings of the said commissioners, accompanied with a full description of the said land or right of way, shall be returned, under the hands and seals of a majority of the commissioners, to the court from which the commission issued, there to remain a matter of record. And the lands or right of way so valued by the said commissioners, shall vest in the said company so long as the same shall be used for the purposes of said railroad, so soon as the valuation may be paid, or, when refused, may have been tendered: *Provided*, that on application for the appointment of commissioners, under this section, it shall be made to appear to the satisfaction of the court, that at least ten days' previous notice has been given by the applicant to the owner or owners of land so proposed to be condemned, or, if the owner or owners be infants or *non compos mentis*, then to the guardian of such owner or owners, if such guardian can be found within the county, or if he cannot be so found, then such appointment shall not be made unless notice of the application shall have been published, at least one month next preceding, in some newspaper printed as convenient as may be to the court-house of the county, and shall have been posted at the door of the court-house on the first day at least of the term of said court, to which the application is made: *Provided, further*, that the valuation provided for in this section, shall be made on oath by the commissioners aforesaid, which oath, any justice of the peace, or clerk of the court of the county in which the land or a part of it lies, is

hereby authorized to administer: *Provided, further,* That the right of condemnation herein granted shall not authorize the said company to invade the dwelling house, yard, garden or burial ground of any individual, without his consent.

SEC. 28. That the right of said company to condemn lands in the manner described in the twenty-seventh section of this act shall extend to the condemning one hundred feet on each side of the main track of the road, measuring from the centre of the same, unless in case of deep cuts and fillings, when said company shall have power to condemn as much in addition thereto as may be necessary for the purposes of constructing said road ; and the company shall also have power to condemn any appropriate lands in like manner, for the constructing and building of depots, shops, warehouses, buildings for servants, agents and persons employed on the road, not exceeding two acres in any one lot or station.

SEC. 29. That in the absence of any contract or contracts with said company, in relation to lands through which the said road or its branches may pass, signed by the owner thereof or by his agent, or any claimant or person in possession thereof, which may be confirmed by the owner thereof, it shall be presumed that the land upon which the said road or any of its branches may be constructed, together with a space of one hundred feet on each side of the centre of the said road, has been granted to the said company by the owner or owners thereof ; and the said company shall have good right and title thereto, and shall have, hold and enjoy the same as long as the same be used for the purposes of said road, and no longer, unless the person or persons owning the said land at the time that part of the said road which may be on the said land was finished, or those claiming under him, her or them, shall apply

for an assessment of the value of said lands, as herein before directed, within two years next after that part of the said road, which may be on said land was finished; and in case the said owner or owners, or those claiming under him, her or them, shall not apply within two years next after the said part was finished, he, she or they shall be forever barred from recovering said land or having any assessment or compensation thereof: *Provided*, nothing herein contained shall affect the rights of *femes covert* or infants, until two years after the removal of their respective disabilities.

SEC. 30. That all lands not heretofore granted to any person, nor appropriated by law to the use of the State, within one hundred feet of the centre of said road, which may be constructed by the said company, shall vest in the company as soon as the line of the road is definitely laid out through it, and any grant of said land thereafter shall be void.

SEC. 31. That if any person or persons shall intrude upon the said railroad by any manner of use thereof, or of the rights and privileges connected therewith, without the permission or contrary to the will of the said company, he, she or they may be indicted for misdemeanor, and upon conviction, fined and imprisoned by any court of competent jurisdiction.

SEC. 32. That if any person shall wilfully and maliciously destroy, or in any manner hurt, or damage, or obstruct, or shall wilfully and maliciously cause, or aid, or assist or counsel and advise any other person or persons to destroy, or in any manner to hurt, damage or destroy, injure or obstruct the said railroad, or any bridge or vehicle used for or in the transportation thereon, any water-tank, warehouse, or any other property of said company, such person or persons so offending shall be liable to be indicted therefor, and on conviction, shall be imprisoned not more than six, nor

less than one month, and pay a fine not exceeding five hundred dollars, nor less than twenty dollars, at the discretion of the court before which said conviction shall take place ; and shall be further liable to pay all expenses of repairing the same ; and it shall not be competent for any person so offending against the provisions of this clause to defend himself by pleading or giving in evidence that he was the owner, agent, or servant of the owner of the land where such destruction, hurt, damage, injury or obstruction was done, at the time the same was done, or caused to be done.

SEC. 33. That every obstruction to the safe and free passage of vehicles on the said road or its branches shall be deemed a public nuisance, and may be abated as such by any officer, agent or servant of said company; and the person causing such obstruction may be indicted and punished for erecting a public nuisance.

SEC. 34. That the said company shall have the right to take at the storehouses they may establish on, or annex to their railroad or the branches thereof, all goods, wares, merchandise and produce intended for transportation, prescribe the rules of priority, and charge and receive such just and reasonable compensation for storage as they by rules may establish (which they shall cause to be published), or as may be fixed by agreement with the owner, which may be distinct from the rates of transportation: *Provided*, that the said company shall not charge or receive storage on goods, wares, merchandise or produce which may be delivered to them at their regular depositories for immediate transportation, and which the company may have power to transport immediately.

SEC. 35. That the profits of the company, or so much thereof as the general board may deem advisable, shall,

when the affairs of the company will permit, be semi-annually divided among the stockholders, in proportion to the stock each may own.

SEC. 36. That whenever it shall appear to the Board of Internal Improvements of this State, by a certificate under the seal of said company, signed by their Treasurer and countersigned by their President, that one third have been subscribed for and taken, and that at least five hundred thousand dollars of said stock has been actually paid into the hands of said Treasurer of said company, the said Board of Internal Improvements shall be, and they are hereby authorized and required to subscribe on behalf of the State, for stock in said company, to the amount of two million of dollars to the capital stock of said company, and the subscription shall be paid in the following manner, to-wit: The one fourth part as soon as the said company shall commence work, and one fourth thereof every six months thereafter, until the whole subscription in behalf of the State shall be paid: *Provided*, the Treasurer and President of said company shall, before they receive the aforesaid installments, satisfactorily assure the Board of Internal Improvements, by the certificates, under the seal of said company, that an amount of the private subscription has been paid in equal proportion to the stock subscribed by the State.

SEC. 37. That if in case the present Legislature shall not provide the necessary and ample means to pay the aforesaid installments on the stock subscribed for on behalf of the State, as provided for in the 36th section of this Act, and in that event the Board of Internal Improvements aforesaid shall, and they are hereby authorized and empowered to borrow, on the credit of the State, not exceeding two million of dollars, as the same may be needed by the requirements of this Act.

SEC. 38. That if in case it shall become necessary to borrow the money, by this Act authorized, the Public Treasurer shall issue the necessary certificates, signed by himself and countersigned by the Comptroller, in sums not less than one thousand dollars each, pledging the State for the payment of the sum therein mentioned, with interest thereon at the rate of interest not exceeding six per cent. per annum, payable semi-annually, at such times and places as the Treasurer may appoint—the principal of which certificates shall be redeemable at the end of thirty years from the time the same are issued ; but no greater amount of such certificates shall be issued at any one time than may be sufficient to meet the installment required to be paid by the State at that time.

SEC. 39. *Be it further enacted*, That the Comptroller shall register said certificates at large in a book to be by him kept for that purpose, at the time he countersigns the same ; and when he delivers the same to the Public Treasurer, he shall charge him in his books with the amount thereof, and also with all such sums, if any, as the Public Treasurer may obtain by way of premium on the sale of the said certificates, an account of which the Public Treasurer shall render to the Comptroller, so soon as negotiations from time to time, for the sale of said certificates, are closed.

SEC. 40. *Be it further enacted*, That if it shall become necessary to issue the certificates aforesaid, the Public Treasurer shall advertise in one or more newspapers, as he may think best, and invite sealed proposals for such amount of the aforesaid sum of two millions of dollars as may be wanted at any one time, and it shall be his duty to accept those terms which may be most advantageous to the State: *Provided*, That in no event shall any of the said certificates be sold for less than their par value; and any premium which may be obtained on the sale of said certificates shall

be placed in the Public Treasury, and used as other public funds in the payment of interest on the debt hereby created.

SEC. 41. *Be it further enacted*, That as security for the redemption of said certificates of debt, the public faith of the State of North Carolina is hereby pledged to the holders thereof, and in addition thereto all the stock held by the State in "The North Carolina Railroad Company" hereby created, shall be, and the same is hereby, pledged for that purpose; and any dividends of profit which may, from time to time, be declared on the stock held by the State shall be applied to the payment of the interest accruing on said certificates; but until such dividends of profit may be declared, it shall be the duty of the Treasurer, and he is hereby authorized and directed to pay all such interest as the same may accrue out of any moneys in the Treasury not otherwise appropriated.

SEC. 42. *Be it further enacted*, That the certificates of debt hereby authorized to be issued, shall be transferable by the holders thereof, their agents or attorneys, properly constituted, in a book to be kept by the Public Treasurer for that purpose; and in every instance, where a transfer is made, the outstanding certificate shall be surrendered and given up to the Public Treasurer, and by him cancelled, and a new one, for the amount, issued in its place to the person to whom the same is transferred.

SEC. 43. That the State shall appoint a number of Directors in said company, in proportion to the stock subscribed, who shall be appointed by the Governor, by and with the advice and consent of his council, and removed in like manner.

SEC. 44. That the following officers and servants and per-

sons in the actual employment of the said company be, and they are hereby exempted from the performance of jury and ordinary military duty: The President and Treasurer of the Board of directors, and chief and assistant Engineers, the Secretaries and accountants of the company, keepers of the depositories, guard stationed on the road to protect it from injury, and such persons as may be working the locomotive engines and traveling with cars for the purpose of attending to the transporting of produce, goods and passengers on the road.

SEC. 45. *Be it enacted*, That for the purpose of putting the Raleigh and Gaston Railroad in good and complete order for the profitable transportation of persons and produce, and for the further purpose of reviving the Raleigh and Gaston Railroad Company, Rhodes N. Herndon, Thomas Miller, John S. Eaton, of Granville county; William J. Hawkins, Weldon N. Edwards, George D. Baskerville, of Warren county; George W. Mordecai, Richard Smith, W. W. Holden, of Wake county; John D. Hawkins, Sr., Allen C. Perry, John D. Hawkins, Jr., of Franklin county; and the late stockholders of an obligors for the Raleigh and Gaston Railroad Company, or any part of them, and such other persons and corporations as may associate with them, are hereby created a body politic and corporate, by the name and style of the Raleigh and Gaston Railroad Company, and by that name shall be able to sue and be sued, and shall have, possess and enjoy all the rights, franchises, powers and privileges, vested in and granted to the Raleigh and Gaston Railroad Company, by an Act, entitled "An Act to incorporate the Raleigh and Gaston Railroad Company," passed by the General Assembly of this State on the day of, and shall be subject to all the restraints, limitations, restrictions and liabilities imposed by the said Act; and all the other provisions of the said Act, so far as the same remain to be executed, are hereby de-

clared to be in full force and effect, upon the following terms and conditions nevertheless.

SEC. 46. *Be it enacted*, That whenever the said persons and their associates named in the foregoing section, shall have subscribed the sum of five hundred thousand dollars, for the purposes aforesaid, and shall have expended the same in putting the Raleigh and Gaston Railroad in complete order with heavy T iron, or other iron equally good, not weighing less than fifty pounds to the yard, then one half of the said railroad, with all the machine shops, depots, water stations, engines, coaches, cars and every other property appertaining to the railroad, shall be sold, conveyed and transferred to the said subscribers, their heirs and assigns, by the Governor, under the great seal of the State; and the said late stockholders and obligors of the said Raleigh and Gaston Railroad Company, shall be and are hereby declared to be forever released and discharged from all liability to the State, for and on account of the said Raleigh and Gaston Railroad Company, upon the payment of costs incurred. And the Governor is hereby authorized, and it is declared to be his duty, to suspend the further prosecution of suits brought by the State against the said stockholders and obligors, until it can be ascertained whether the subscribers are willing to accept the conditions of this Act, and that they shall be allowed two years from the passage of this Act to make known their determination to the Governor. And if the terms and conditions of this Act shall be accepted, and the work commenced within two years, and finished within three years from the ratification of this Act, then this Act shall continue and be in full force for ninety years and no longer.

SEC. 47. *Be it further enacted*, That if the conditions of this act are accepted, and the sum of five hundred thousand dollars have been subscribed by solvent subscribers, to be

judged of by the Governor and Attorney-General, then and in that case the said subscribers shall have lawful authority to mortgage one half of the said railroad to enable them to obtain the necessary credit to purchase a part of the iron which will be needed for said road.

SEC. 48. *Be it further enacted*, That if the said subscribers shall refuse or neglect to accept the terms and conditions of this act, then all the benefits of the same shall be granted to Thomas F. Wyatt, John Campbell, Thomas P. Devereux, Andrew Joyner, Weldon N. Edwards, George D. Baskerville and Alexander Hawkins, and such other persons as may associate with them, who shall accept and comply with all the terms and conditions of the same; and they and their successors are hereby incorporated into a company, by the name and style of the Raleigh and Gaston Railroad Company, and by that name shall have lawful authority to sue and be sued, to hold, possess and enjoy all the rights, franchises, powers and privileges granted by this act, and shall be subject to all the restraints, limitations, restrictions and liabilities imposed by the same.

SEC. 49. *Be it enacted*, That whenever the Roanoke Railroad Company, or the Seaboard and Roanoke Railroad Company, with or without the aid of individuals, shall subscribe to the Raleigh and Gaston Railroad Company, one half of the sum necessary to construct a railroad from some convenient point on the Raleigh and Gaston Railroad, near the Littleton depot, or any point between that depot and Roanoke river, and the town of Weldon, or any point in the neighborhood thereof, so as to connect with the Wilmington and Raleigh Railroad, and the Seaboard and Roanoke Railroad, and shall expend the said sum in forming the said connection, then the said Raleigh and Gaston Railroad shall be extended to the said town of Weldon or neighborhood thereof; and the Public Treasurer is hereby au-

thorized and directed to subscribe for an equal sum for and in behalf of the State, and pay for such subscription out of any money in the Treasury not otherwise appropriated; and for the want of such money in the Treasury, the Public Treasurer is hereby authorized to borrow the sum at a rate of interest not exceeding six per cent. per annum, and to issue bonds payable at any time within ten years for not less than five hundred dollars each.

SEC. 50. *And be it further enacted*, That one of the conditions of this charter is that this General Assembly shall have power and authority at any future session to establish, regulate and control the intercourse between the North Carolina Railroad and the Raleigh and Gaston Railroad, so as best to secure to the public an easy and convenient passage of persons and property.

SEC. 51. *Be it further enacted*, That the sum of forty thousand dollars, to be raised by the State in the same manner as other moneys are raised by the provisions of this act, be, and the same is hereby appropriated for the purpose of cleaning out and improving the navigation of the river Neuse between the town of Newbern and the town of Smithfield. And also, that the further sum of twenty-five thousand dollars, to be raised in like manner, be, and the same is hereby appropriated for the purpose of cleaning out and improving the navigation of the Tar river between the town of Washington and the falls of the said river; and that his Excellency the Governor is hereby empowered and required to appoint suitable commissioners to carry into effect the requirements of this section: *Provided*, The sum hereby appropriated to the Neuse and Tar rivers shall not be paid by the Public Treasurer until the railroad company shall have subscribed the whole amount of stock required from them by the provisions of this act, and have commenced operations on said road.

SEC. 52. *Be it further enacted*, That as soon as the said North Carolina Railroad is commenced and the superstructure of the same laid down at Raleigh, the owners, proprietors and authorities of the Raleigh and Gaston Railroad shall be, and they are hereby authorized and empowered to effect a junction and form an actual connection with the said North Carolina Railroad, at such point at or in the vicinity of Raleigh as they in their discretion may select.

SEC. 53. *Be it further enacted*, That all the works hereby required of the North Carolina Railroad Company shall be executed with due diligence, and if they be not commenced within three years after the ratification of this Act, and finished within ten years after the period of commencement, then this charter shall be forfeited.

Ratified 27th of January, 1849.

AMENDMENTS TO THE CHARTER.

AN ACT FOR THE COMPLETION OF THE NORTH CAROLINA RAILROAD.

SECTION 1. *Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same,* That the Public Treasurer is authorized, and instructed to subscribe, in behalf of the State, for ten thousand additional shares of capital stock in the North Carolina Railroad Company, and that he make payment for said stock by issuing and making sale of the bonds of the State, under the same provisions, regulations and restrictions prescribed for the sale of the bonds heretofore issued and sold to pay the State's original subscription in the stock of said company, and the same pledges and securities are hereby given for the faithful payment and redemption of the certificates of debt now authorized, that were given for those issued under the same Act: *Provided, nevertheless,* That the whole amount of principal money of such bonds or certificates of debt shall not exceed the sum of one million of dollars.

SEC. 2. *Be it further enacted,* That the stock thus directed to be subscribed and paid for, in behalf of the State, shall be a preferred stock in the North Carolina Railroad Company, and the State shall be entitled to six per cent. per annum, payable semi-annually thereon, out of any dividends of profits made by said company before any dividends shall be paid on any other stock in the same, and that the stockholders of said company, in general meeting assembled, shall give their assent to the provisions of this Act, and that the President of said company shall make a certificate of said assent, under the seal of the said company, to

be approved by the Governor of the State, and filed in the office of the Public Treasurer before the subscription shall be made as directed in the first section of this Act: *Provided*, That the said stock of one million shall continue to be preferred stock, entitled, as aforesaid, only so long as, and during the time, that it is held by the State, but upon being sold and transferred by the State, shall thenceforth cease to be entitled to dividends of preference as aforesaid: *Provided, further*, that said stock may be transferred to any other work of internal improvements, by a future Legislature.

SEC. 3. *Be it further enacted*, That the affairs of the said company shall be managed and directed by a general board to consist of twelve directors—eight on the part of the State, and four on the part of individual stockholders—to be elected and appointed as heretofore provided in the original act of incorporation of said company, at the general annual meetings of stockholders of said company, and that no person shall be competent to act as a director in said company who is not a stockholder to the amount of five shares of stock.

SEC. 4. *Be it further enacted*, That at all general meetings of the stockholders, the State shall be represented by an agent or proxy appointed by the Governor, and such agent or proxy shall not be entitled in the general meetings aforesaid to vote in the election of the directors to be elected on the part of individuals.

SEC. 5. *Be it further enacted*, That all real estate held by said company for right of way, for station places of whatever kind, and for workshop location, shall be exempt from taxation until the dividends of profits of said company shall exceed six per centum per annum.

SEC. 6. *Be it further enacted*, That the sum of fifteen thousand dollars, to be raised by the State in the same manner as other moneys are raised by the provisions of this Act, be, and the same is hereby appropriated, for the purpose of cleaning out and improving the navigation of Tar river, between the town of Washington and the fall of said river, and that his Excellency, the Governor, is hereby empowered and required to appoint suitable commissioners to carry into effect the requirements of this section.

SEC. 7. *Be it further enacted*, That this act shall take effect and be in force from its ratification.

Ratified 14th February, 1855.

AN ACT TO AMEND THE CHARTER OF THE NORTH CAROLINA RAILROAD COMPANY, AND FOR OTHER PURPOSES THEREIN MENTIONED.

SECTION 1. *The General Assembly of North Carolina do enact*, That the North Carolina Railroad Company, a Corporation chartered by the General Assembly session one thousand eight hundred and forty-eight and one thousand eight hundred and forty-nine, is hereby authorized to construct and make, or to purchase, hold and complete the construction of a railway from Salisbury to or near the line of division between this State and Tennessee, at or near Paint Rock, and to the Georgia and Tennessee line, in the county of Cherokee.

SEC. 2. That the said North Carolina Railroad Company may purchase the Western North Carolina Railroad, or any one or all the divisions of the same, whether at judicial sale or any other sale that may be made thereof, and thenceforth may have, hold, possess and be entitled to the said Railroad

and all its contracts, franchises, rights, privileges and immunities, and all the property and estate of every description, real and personal, belonging to the Western North Carolina Railroad Company ; and by such purchase the said Company shall acquire all the rights, privileges and immunities conferred on the Western North Carolina Railroad Company by its charter, and all amendments made thereto.

SEC. 3. That said Company may in like manner purchase the Atlantic and North Carolina Railroad, and thenceforth have, hold and possess the said railroad and its contracts, franchises, rights, privileges and immunities, and all the property and estate of every description, real and personal, belonging to said Atlantic and North Carolina Railroad Company ; and by such purchase the North Carolina Railroad Company shall acquire and succeed to and exercise all the rights, privileges and immunities conferred on the said Atlantic and North Carolina Railroad Company by its charter and amendments made thereto. The Governor of the State, in order to further and aid such sale and transfer, is authorized and empowered to transfer to the said North Carolina Railroad Company all the stock owned by the State in the said Atlantic and North Carolina Railroad Company ; and until the transfer of the stock of said company is approved by the individual stockholders of the said road, the Governor shall retain the right to appoint Directors in the said Atlantic and North Carolina Railroad Company : *Provided*, That if the stock of the private stockholders in this road is purchased, the price given therefor shall not exceed the market value of said stock at the time when the purchase shall be made : *Provided, further*, That the said Atlantic and North Carolina Railroad shall not constitute assets for the payment of the bonds heretofore issued by the State to build the North Carolina Railroad.

SEC. 4. That the line of railway so purchased and ac-

quired shall become absorbed and merged into the said company, and the whole line shall be known by the name of the North Carolina Railroad Company.

SEC. 5. That said Corporation in case it shall become the purchaser of the Western North Carolina Railroad, is authorized to complete the construction of the said railroad and its divisions and shall have the necessary power for so doing ; and for the purpose of raising money to accomplish the purposes of this act, the said North Carolina Railroad Company may, at its option, make, execute and issue its bonds, payable with interest thereon, either in United States currency or gold, and in this country or any foreign country or State, and at any rate of interest it elects, not exceeding eight per cent. per annum, and for any amount not exceeding thirteen thousand dollars per mile of finished road, made or to be made, which bonds shall be signed by the President, countersigned by the Directors, and attested by the Secretary of the Company, and sealed with its corporate seal, and be wholly or partly in sums of five hundred dollars, or one thousand dollars each, with the usual half-yearly interest coupons annexed ; the principal and interest of said bonds to be made due and payable at such times and places, and in such manner, and to be sold at such times, places and prices as the Directors may select, the principal of said bonds to be payable in not less than ten or more than twenty years, the sale to be made by M. E. Manly, W. A. Graham, and R. F. Armfield, commissioners to sell and dispose of such bonds as may be issued, in pursuance of the provisions of this act, and said Company are hereby prohibited from ever resisting the payment thereof on the plea of usury. The proceeds arising from the sale of said bonds, and also from the sale of certificates of indebtedness herein authorized to be issued may be applied to the constructing, purchasing and repairing of the railroads to extend over the routes herein mentioned, for equipping the same, for dis-

charging any indebtedness of said Company, and for purchasing any securities or liabilities which may embarrass the operations of said Company : *Provided*, That said commissioners shall set apart out of the proceeds of the sales of said bonds, a sum of money not less than one million eight hundred thousand dollars to be applied to the construction of said Western North Carolina Railroad from Old Fort by way of Asheville to Paint Rock, and to no other purpose.

SEC. 6. That to secure the payment of the bonds and other evidences of debt issued as aforesaid, and the interest thereon as the same becomes due, the said corporation may execute and deliver mortgage deeds with power of sale to such trustee or trustees as may be selected or agreed on, one of whom shall be the Governor of this State, the same to be signed by President, countersigned by three Directors, and attested by the Secretary of said corporation, conveying its railway, branches, franchises and property, including its road-bed, superstructure, equipment, choses in action, evidences of debt, and all its real and personal estate of whatever kind ; and the said deeds and all other agreements the said company may enter into, which by law require registration, when duly executed, may be recorded in the Register's office in the county of Wake, and its registration in that county shall be deemed an effectual and sufficient registration for all purposes whatsoever, and shall give it priority and preference over all claims against said corporation ; and it shall not be necessary to record or register the same in any other county, any law to the contrary notwithstanding : *Provided*, That the said mortgage shall contain as full and ample provisions in the matter of sale and foreclosure for the security of the owners of bonds and coupons, or either, in case of default in the payment of one, or other, or both, as are contained in the deed of indenture or mortgage made the first day of November, one thousand eight

hundred and sixty-seven, between the said North Carolina Railroad Company of the first part, and William A. Graham of the second part.

SEC. 7. That no public sale of said North Carolina Railroad Company, or any part thereof, or any of its franchises or right, shall be made under the mortgage provided for in this act, until such sale shall have been advertised for six successive weeks, in two newspapers in the city of Raleigh of the greatest circulation.

SEC. 8. That the directors of the said company shall be authorized to purchase from the stockholders of the same any of the stock owned by them, and they are empowered and directed out of the first moneys arising from the sale of bonds or from any lease made or to be made, to purchase from the private stockholders or any of them who may desire to sell their stock or any part thereof, and to pay for the same at the rate of fifty dollars per share, and the stock so purchased shall become the property of the said company: *Provided*, That if any stockholder or stockholders of the said North Carolina Railroad Company, being such at the time of making such consolidation, agreement, contract or arrangement for the purchase, merging or other acquisition of any of the railroads contemplated by this act, shall be dissatisfied with the same or dissatisfied with the acceptance of this act by the stockholders, the said company shall pay to such dissatisfied stockholder or stockholders, the full value of his, her or their stock, to be assessed by three disinterested commissioners appointed for that purpose by the Clerk of the Superior Court of the county in which such stockholder or stockholders may reside, on the application of either party, made upon twenty days' notice; but the said company shall not be compelled to pay for stock of any such dissatisfied stockholder or stockholders, unless he or they shall give written notice of such dissatisfaction to the President, Secretary or Treasurer of the company, whose

stock shall be held by him or them, within three months after such consolidation, agreement or other arrangement for the purchasing, merging or acquiring the railroads aforesaid, or after the acceptance of this act by the requisite number of stockholders: *Provided, further,* That the sale of any share or shares, to the company, under the provisions of this act, by any executor, administrator, guardian, trustee or person acting in fiduciary capacity shall be valid in law.

SEC. 9. That the said company shall have the power and authority to contract for prorating or for interchange of business traffic with any railroad company, doing or desiring a connection business, whether chartered by the laws of this State, or any other State, upon such equitable terms as the directors may agree upon.

SEC. 10. That if the commissioners, appointed by this act, to sell and dispose of the bonds, shall decline to act, resign or die, then the Governor shall appoint a sufficient number of commissioners to fill their places; but no person shall be a commissioner, director or general manager who has heretofore or may hereafter decline to testify before any committee, legislative or otherwise, or before any court of competent jurisdiction, in regard to any matter touching or growing out of his conduct while President or director of any railroad, or while acting in any public fiduciary capacity on the ground that if he were to testify he would criminate himself, or on any kindred or like grounds, or who has been convicted of embezzlement; or who has failed to return to the treasury any special tax bonds as required by law; and the bonds shall only be sold in such amounts as shall be needed from time to time to carry out the provisions of this act, and shall at no time exceed the sum of five hundred thousand dollars over and above the actual amount due and paid.

SEC. 11. That any director or officer of the said North Carolina Railroad, or other person entrusted with any of the bonds, certificates of indebtedness or other funds of the company, who shall be guilty of any wrongful appropriation, misapplication, malfeasance or other corrupt use of the same with intent to benefit himself and defraud the company, shall be guilty of a felony, and upon conviction thereof before any Superior Court of the State, shall be punished by a fine not less than ten thousand dollars and by imprisonment in the penitentiary not less than ten years, and shall further be guilty of embezzlement.

SEC. 12. That the bonds authorized by this act to be issued, and the mortgage made to secure the same may be divided into two series or classes. The first series or class shall be on all of that portion of the finished road the said company now owns or may hereafter own between Morehead and Paint Rock. The second series or class shall be on the other roads it may construct, and acquire and own.

SEC. 13. That the Governor shall have power to remove, for causes which he may deem sufficient, any directors appointed by him, and shall have power to fill the vacancy, and shall report to the next session of the General Assembly any action taken by him in the matter of removals.

SEC. 14. That the directors of said company shall have the power to change the location of any of the lines their said company may purchase: *Provided*, That the line of railroad, in Catawba county, running from its main line to Newton, shall not be changed until the main line shall have been constructed to within one mile and a quarter from the court-house in said town of Newton.

SEC. 15. That immediately after the sale of the first mortgage bonds under this act, the said North Carolina

Railroad Company shall commence work on the line of the road between Old Fort and Paint Rock, and continue the work thereon without intermission until the work is completed between said points; and immediately thereafter it shall be the duty of the said company to commence work on the line between Asheville and the Georgia or Tennessee line, in Cherokee county, and continue the work thereon until the said line is completed; and to enable said company to carry on and continue said work, it is hereby made the duty of the commissioners named in this act to reserve from the proceeds of the sale of said bonds a sum of money not less than seven hundred and fifty thousand dollars in cash, to be applied only in the construction of the said line between Asheville and the Georgia and the Georgia and Tennessee line, in Cherokee county; and all moneys raised on any bonds issued on any part of the line west of Asheville, shall be set apart by said commissioners to be applied exclusively on the line between Asheville and the Georgia and Tennessee line in Cherokee county.

SEC. 16. That immediately after the passage and ratification of this act, it shall be the duty of the Governor to call a meeting of the stockholders of the said North Carolina Railroad Company, and submit this act and amendments of charter for their acceptance or rejection, and if a majority of the stock so represented shall vote to accept the same, it shall become a part of their charter.

SEC. 17. That all laws and clauses of laws coming in conflict with any of the provisions of this act, be and the same are hereby repealed.

SEC. 18. This act shall take effect and be in force from and after its ratification.

In General Assembly read three times and ratified this 10th day of February, A. D. 1874.

J. L. ROBINSON, *Speaker of the House.*

C. H. BROGDEN, *President of the Senate.*

STATE OF NORTH CAROLINA,
OFFICE SECRETARY OF STATE,
RALEIGH, April 13th, 1874.

I hereby certify that the foregoing is a true copy from
the original Act on file in this office.

WM. H. HOWERTON, *Sec. of State.*

BY - LAWS

OF THE

North Carolina Railroad Company.

MEETING OF THE STOCKHOLDERS.

1. The general annual meeting of the stockholders shall be held alternately at Greensboro, Raleigh, Salisbury and Hillsboro, on the second Thursday of July in each and every year, until otherwise ordered.

2. The President, or any five directors, or any number of stockholders representing one third of the individual stock, shall have power to call occasional meetings of the stockholders at such time and place as he or they may think proper, first giving twenty days' notice thereof in two or more newspapers published in the city of Raleigh.

3. At least one hundred individual stockholders, represented either in person or by proxy, and holding not less than a majority of the stock subscribed by individuals, shall be necessary to constitute a *quorum* for the transaction of business.

4. At every general annual meeting, three stockholders shall be appointed by the Chairman, who, with the Secretary of the company, shall constitute a committee to verify proxies at the ensuing meeting, and it shall be the duty of

the Secretary to prepare, for the use of such committee, an alphabetical list of the stockholders entitled to vote, and the number of shares held by each, as also the number of votes to which each may be entitled.

5. Notice of the general annual meetings of the stockholders, and of closing the transfer books, shall be published by the Secretary at least twenty days previous thereto, in two newspapers published in the city of Raleigh.

6. The proceedings of the stockholders at all their meetings shall be recorded by the Secretary of the company, in a well bound book to be kept for that purpose.

7. Stockholders of this company, with their immediate families going to and returning from the meetings of the company, may travel over the road free of charge to and from the place of meeting.

DIRECTORS.

1. The Directors on the part of the individual Stockholders shall be elected at the general annual meetings, and shall continue in office until the next general annual meeting, and on failure to elect Directors at such meeting, the President and Directors then in office shall continue to exercise their respective offices until their successors shall be elected.

2. On failure of the Stockholders to elect Directors as provided by law, the Chairman of the Stockholders then assembled, shall adjourn the meeting from time to time, and give notice thereof until a proper meeting can be held, and an election made, and on failure of the Chairman, from any cause, to adjourn or appoint such meeting and give the necessary notice, the acting President of the company, or

any two acting Directors shall make the call and give the necessary notice.

3. The Board of Directors shall meet at least once in two months at Burlington, or at such other place as they may direct, which meetings shall take place on the third Fridays of August, October, December, February, April and June, in each year, and the President shall be at liberty to convene the Board as much oftener as the interest of the Company may require.

4. The Directors shall keep a record of their proceedings, shall have power to establish a common seal with suitable devices, and to alter the same at pleasure, to ascertain and define the duties of the officers, clerks and servants of the company, and direct them in the performance thereof, and to dismiss from the service of the company any officer or agent, clerk or servant, whenever in their opinion the interest of the company may require.

5. The Directors, seven members concurring, shall appoint an Auditor, Treasurer, Secretary and Superintendent ; all other officers, agents or employees, shall be appointed by the President and Superintendent, and their appointments shall be submitted to the Board of Directors at the next meeting thereafter for approval, and the compensation of all such officers shall be fixed by the Board of Directors.

6. Seven members of the Board shall constitute a *quorum* for the transaction of business, and each Director shall receive as compensation for his services five dollars for each day he may be so engaged, with the privilege of the road for himself and his own immediate family, when accompanied by himself.

7. No loan, either permanent or temporary, shall be made

by the President or any other officer of the company, unless authorized or directed by at least seven members of the board of directors.

8. No director shall, while acting as such, fill any office in the gift of the company, nor shall any director be allowed to act as agent or counsel for parties having claims or demands to be passed upon by the board of directors.

PRESIDENT.

1. The President shall be elected annually, by ballot, by a majority of the whole board of directors, and out of their number, and shall receive as compensation for his services an annual salary of \$2,500, over and above his necessary traveling expenses incurred by order of the board of directors, on journeys out of the State, on business of the company.

2. The President shall have the general supervision and control of all the other officers of the company, and shall prescribe their duties, unless otherwise provided for. He shall carefully examine into the performance of their duties, and from time to time report to the directors all and any matters touching the interest of the company which shall come to his knowledge. He may at any time, when the board is not in session, suspend any officer or dismiss any servant, but at the next meeting he shall report such facts and the reason for so doing.

3. The President shall conduct the general correspondence, sign documents in the name of the company, keep the seal of corporation, and with the consent of a majority of the directors, shall affix the same to all conveyances and other instruments to which the attestation of the seal may be necessary.

4. It shall be the duty of the President to see that proper accounts are kept by all the subordinates, and reports made monthly so as to show :

- 1st. Amount of temporary or permanent loans made.
- 2d. Income of the road from freight, passengers, &c.
- 3d. Income from other sources.
- 4th. Current expenses of the road.
- 5th. Debts paid, and whether old or new.
- 6th. Property or material purchased.
- 7th. Property and other material sold or otherwise disposed of.
- 8th. Property and material on hand, with their estimated value.
- 9th. Property and material lost or destroyed.
- 10th. Debts contracted or outstanding.

And the President shall report the same to the board at each regular meeting, who shall embody the substance thereof in their annual report to the stockholders.

There shall also be reported to the meeting of the stockholders a list of the persons in the employment of the company, stating in distinct columns, the names, compensation and duty : *Provided, however,* That the names of the hands on the road, in the depots and workshops, and upon the trains, need not be stated, but in regard to them it shall be sufficient to mention the number employed for each purpose, and their compensation.

THE AUDITOR.

1. Shall give bond in the sum of twenty thousand dollars, with sureties, to be approved by the board.
2. It shall be his duty to audit the accounts of the Treasurer and other financial agents of the company ; and to

this end he shall keep such accounts and prescribe such rules and regulations, with the approval of the board, as will require of these officers dispatch and fidelity in their several trusts.

3. He shall also examine and pass upon all claims and demands against the company; see that they are just and proper, and that they are supported by sufficient evidence, and verified by proper agents or officers of the company. He shall endorse thereon his approval, rejection or suspension, and forward them for the action of the President; and all approved by the President shall be countersigned by the auditor for payment, specifying the exact sums ordered to be paid.

4. It shall be his duty to investigate all cases of loss and damage on the road, and in the several stations, all violations of contracts and official delinquencies, and he shall have a special supervision of all suits in court for or against the company.

5. He shall keep a record of all his proceedings, and shall render to the board monthly, quarterly and annual reports of the financial condition of the company; and to this end he may have full access to all the books and accounts of the other officers of the company.

TREASURER.

1. The Treasurer shall also be appointed annually by the board of directors, and shall give bond in the sum of \$50,000, with security, to be approved by the board.

2. It shall be the duty of the Treasurer to take charge of, and safely keep, all the moneys and monied securities of the company, to disburse the same under the direction and upon

the warrants of the President, countersigned by the Auditor, and to take proper vouchers for such disbursements. He shall deposit all moneys belonging to the company over and above the sum of twenty thousand dollars, in such bank or place as may be designated by the board of directors, and shall render to the President a monthly account of all his transactions, and also an annual report to the stockholders.

3. Whenever the board of directors may think necessary, they may authorize the appointment of a Paymaster, who shall enter into bond in such sum as they may direct, with securities approved by the board, and shall receive such compensation as they may prescribe. He shall pay such accounts and pay-rolls as may be delivered to him by the Auditor, and shall take proper vouchers for the same, and shall promptly account for all such payments.

THE SECRETARY.

1. Shall give bond in the sum of twenty thousand dollars, with sureties, to be approved by the board.

2. He shall record the proceedings of the board and of the stockholders' meetings, and shall take charge of all the books, deeds, official bonds, and other papers of the corporation, not pertaining to other officers, or otherwise provided for.

3. The Secretary shall be the principal book-keeper of the company, and shall keep all the individual and consolidated accounts of the corporation, and, in regard to the receipts and expenses of the road, he shall keep, in detail, the several items of income and expenditure, so as to show the amount of each.

ENGINEER AND SUPERINTENDENT.

1. It shall be the duty of the Superintendent to see that the road and bridges and their equipments are kept and maintained in good repair and condition; to devise and recommend to the directors such changes and alterations to the road, bridges and other equipments as he may deem necessary for the safe and advantageous operating of the road; to prescribe, with the assent of the directors, rules and regulations for ticket agents, conductors, engineers, brakemen, switchmen, flagmen, baggage-masters, and all other persons employed in operating the road, so as to secure the safe, regular and convenient transport of passengers and freight, and to prescribe rules for the conduct of all persons employed in other capacities upon or about the road; to employ, subject to the approval of the board, all persons necessary for the operating of the road, and to discharge such employees as may be useless, unnecessary, negligent or inefficient.

He shall have the ordering of the trains on the road, their speed and time of starting, and to cause proper timetables to be issued, and proper advertisements to be published in such newspapers as he shall deem proper.

He shall supervise all persons entrusted with the printing and issuing of tickets, and with accounting for the same. He shall, in conjunction with the President, see that all connecting roads perform the obligations required by law or contract, and that the reciprocal duties of this company are performed. He shall, under the President, have the superintendence of all persons employed in maintaining and taking care of the property of the company, in operating the road, in the work-shops, in receiving and delivering of freights and baggage, and in any matter relating to the business of the road, and see that they perform their duties with faithfulness and care, and shall discharge such other duties as may be assigned by the board of directors. He

shall make a monthly report to the President of his proceedings and the condition of the road, together with an estimate of materials and supplies required for the ensuing month, and shall also make an annual report to the board of directors, to be submitted to the stockholders at their annual meeting.

COMMITTEE OF FINANCE.

1. There shall be a Committee of Finance, consisting of five, three of whom shall be appointed by the stockholders at each annual meeting, and two by the board of directors, whose duty it shall be to examine the accounts and vouchers of the Treasurer, the books of the Secretary and other officers, every two months, and report their condition at each stated meeting of the board, and also to report to the general meeting of the stockholders such facts and suggestions as to the state of the accounts and general financial condition of the company as they may think proper. Any three of this committee shall constitute a *quorum*. That the members of such committee shall each receive five dollars per day for his services while actually engaged in such examination, with the privilege of the road for himself and his own immediate family, when accompanied by himself.

REPORTS.

The annual reports of the President and Directors, of the Treasurer, Superintendent and Committee of Finance, shall be prepared and published prior to the annual meeting of the stockholders, and shall be referred to appropriate committees, and acted on by the meeting previous to the election of directors.

PROXIES.

1. Proxies shall be in writing, signed by the parties, and may be general or special, and none but a stockholder shall be a proxy.

2. No officer or director of the company shall act as proxy for any stockholder, but this rule shall not prevent any person from representing the State at any general meeting of stockholders, who may have been duly appointed for that purpose.

CONTRACTS.

1. Contracts shall be made under such rules and regulations as the directors shall prescribe, and when signed by the President, shall be binding on the company either with or without the seal of the corporation.

2. No contract shall be considered as binding on the company, unless ratified or approved by the President or board of directors.

3. Neither the President or any director, or any other officer or employee of this company shall, during the term of his office or service, be interested either directly or indirectly in any matter of contract with the company, whereby he or they shall or may derive any pecuniary benefit, and any one who shall become so interested, shall forfeit his office or place.

CERTIFICATE OF STOCK.

The form of certificates of stock shall be as follows :

NORTH CAROLINA RAILROAD COMPANY.

No. Shares.

Be it known that, of,
is entitled to shares in the North Carolina

Railroad Company, transferable by the said -----
either personally or by attorney, only at the office and on
the books of said company.

Witness, -----, President of the said North
Carolina Railroad Company, at -----, under the
seal of the corporation, this day of -----, A. D.

TRANSFERS.

1. The stock shall be transferred, either in person or by
attorney, on the books of the company, to be kept by the
Secretary for that purpose, which *book* shall be closed on
the first day of June in each year, and shall continue closed
until after each general meeting of the stockholders.

2. Powers to transfer shall be signed by the party, in the
presence of a director of the company, one of the Judges
of the Supreme or Superior Courts, a Clerk of a Court of
record, or Notary Public, or Justice of the Peace, and at-
tested by the same, and said power shall be filed in the
office of the Secretary of said company.

MORTGAGE.

THIS INDENTURE, made the first day of November, in the year of our Lord one thousand eight hundred and sixty-seven, between the North Carolina Railroad Company, incorporated under and by virtue of the laws of the State of North Carolina, of the first part, and William A. Graham, of the county of Orange and State of North Carolina, of the second part, witnesseth that :

WHEREAS, In pursuance of the powers and authorities in it duly vested, the said North Carolina Railroad Company has resolved to issue and negotiate a series of bonds to amount in all to the sum of one million five hundred thousand dollars in the money of the United States of America, which bonds are to be equally secured by these presents ; and are, upon their face, to be payable to the said William A. Graham, or to the bearer, with interest thereon, payable semi-annually on the first days of May and November in each year, upon presentation and surrender of annexed coupons as they severally become due ; and providing that in case of default in the payment of any half yearly installment of interest which shall become payable and shall have been demanded, and the continuance of such default for the period of six months after such demand, the principal of any bond upon which such interest may have accrued, shall become due in the manner and with the effect hereinafter declared in this deed of trust ; with further provisions upon their face, making reference to this deed of trust as securing the same, and entitling them to the benefit of the sinking fund herein provided, and specifying the manner and place in which

transfers of such bonds shall be made, and that none of them shall become obligatory until authenticated by a certificate endorsed therefor, and signed by the trustee named above or by his successor as such trustee: such bonds being in sums of five hundred dollars, or one thousand dollars each, running one class for five, a second for ten, and a third for twenty years from their respective dates, each being witnessed by the affixed corporate seal of the company and the signatures of the President and Treasurer, and the attached coupons being signed by the Treasurer.

Now, therefore, this indenture witnesseth, that for and in consideration of the premises, and for the sum of one dollar to it duly paid by the said party of the second part, and in order to secure the payment of the principal and interest of the said bonds, according to the tenor thereof, and of the coupons thereto annexed, the said North Carolina Railroad Company, the party of the first part hereto, has granted, bargained and sold, and by these presents doth grant, bargain, sell, convey and transfer, unto the said party of the second part, and his successors and assigns, all and singular the railroad of the party of the first part, or which the said party of the first part is by law authorized to construct, being the line of railroad heretofore known, or hereafter to be known, as the North Carolina Railroad, as the same now is and hereafter shall be constructed, extending from the town of Goldsboro, in the county of Wayne, in the State of North Carolina, to the city of Charlotte, in the county of Mecklenburg, including all the railways, branches, ways, rights of way, depot grounds, and all lands in any manner or way, belonging thereto or connected therewith; and all tracks, bridges, viaducts, fences and other structures, depots, station-houses, engine-houses, car houses, freight-houses, wood-houses, sheds and other buildings, and all machine shops, and other shops held or acquired, or hereafter to be held or acquired by the said company, its successors or assigns, for use in connection with the railroad of the party of the first

part, or any part thereof, or with the business of the same ; and including also all locomotives, steam-engines, tenders, cars, coaches, and other rolling stock or equipment, and all stationary engines, machinery, tools, implements, fuel and materials for constructing, operating, repairing or replacing the said railroad, or any part thereof, or of any of the equipments or appurtenances of the said railroad, or any part thereof, and all the machinery of all kinds in the different shops belonging to the said North Carolina Railroad Company, iron, and iron castings, bellows, anvils, tools and materials of all kinds, copper, flues, composition, cast-steel, brass, paints, nails, coal, lumber, zinc, and all and singular the other personal property of any nature, kind, and description whatsoever, belonging to the said North Carolina Railroad Company, and all the real estate, of every kind, belonging to the said North Carolina Railroad Company, wheresoever the same may be situated, and also all franchises connected with or relating to the said railroad, or to the construction, maintenance, or use of the said railroad, and all the property, franchises, rights and things of whatsoever name or nature, now held or hereafter to be acquired by the said party of the first part or its successors, together with all and singular the tenements, hereditaments, and appurtenances to the said railroad, lands and premises, or either thereof belonging, or in anywise appertaining ; and the reversion and reversions, remainder and remainders, tolls, incomes, revenues, rents, issues and profits thereof ; and also all the estate, right, title, interest, property, possession, claim and demand whatsoever, as well in law as in equity, of the said party of the first part, of, in and to the same, and any and every part thereof, with the appurtenances.

To have and to hold the above mentioned and described railroad, branches, real estate, personal property and premises, with the appurtenances, unto the said party of the second part and his successors and assigns, to the only

proper use, benefit and behoof of the said party of the second part, and his successors and assigns, in trust, nevertheless, for the purposes herein expressed, to-wit :

ARTICLE FIRST.—Until default shall be made by the said party of the first part, its successors or assigns, in the payment of the principal or interest, or some part thereof of the said bonds, or some one of them, or until default shall be made in some payment into the sinking fund hereinafter mentioned, or in some other requirement hereof, the said party of the first part, its successors and assigns, shall be suffered and permitted to possess, manage, operate and enjoy the said railroad, with its equipments and appurtenances ; and also the lands and premises, property and franchises herein before described ; and to receive, take and use the tolls, incomes, revenues, rents, issues and profits thereof, in the same manner and with the same effect as if this mortgage had not been made.

ARTICLE SECOND.—In case, first, default shall be made in the payment of any interest on any of the said bonds, according to the tenor thereof, or of the coupons thereto annexed, or in the payment of any part of the principal of said bonds or any of them, when the same shall become due, and that any such default shall continue for the period of six months ; or, secondly, in case default shall be made in any payment by these presents required to be made into the sinking fund hereinafter mentioned, and that such default shall continue for the period of six months ; or, thirdly, in case default shall be made in the performance or observance of one or other requirement thereof, and that such last mentioned default shall continue for the period of six months, then, and in either of such cases, it shall be lawful for the said trustee, or his successors, personally, or by his attorneys or agents, to enter into and upon all and singular the railroads, lands and premises hereby conveyed,

or intended so to be, and each and every part thereof, and to have, hold and use the same, operating by his superintendents, managers, receivers or servants, or other attorneys or agents, the said railroads, and conducting the business thereof, and making from time to time all repairs and replacements, and such useful alterations, additions and improvements thereto as may seem to him to be judicious, and to collect and receive all tolls, freights, incomes, rents, issues and profits of the said railroads, land and premises, and of every part and parcel thereof, and after deducting the expenses of operating the said railroads and conducting the business thereof, and all expenses incurred in the holding and management of said lands, and of all the said repairs, replacements, alterations, additions and improvements, and all payments which may be made for taxes, assessments, charges or liens, prior to the lien of these presents, upon the said premises, or any part or parcel thereof, as well as just compensation for his own services, and for the services of such attorneys and counsel as may have been by him employed, to apply the moneys arising as aforesaid to the payment of interest on the said bonds, in the order in which such interest shall have become due, ratably to the persons holding the coupons evidencing the right to such interest; and after paying all interest which shall have become due, to apply the said moneys to the payment of the principal of such of the said bonds as may be at that time unpaid, ratably and without discrimination or preference; and if, after satisfaction thereof, a surplus shall remain, to pay over such surplus to the said company, its successors or assigns, or as any court of competent jurisdiction shall order.

ARTICLE THIRD.—In case default shall be made as aforesaid, and shall continue as aforesaid, it shall likewise be lawful for the said trustee, or his successors, after entry as aforesaid, or other entry, or without entry, personally, or by his attorneys or agents, to sell and dispose of all and

singular the railroads, lands and premises hereby conveyed, or intended so to be, at public auction, in the city of Raleigh, or at such other place within the State of North Carolina as the said trustee or his successors shall designate, and at such time as he may appoint, having first given notice of the place and the time of such sale by advertisement published not less than three times a week for six weeks in one or more newspapers published in the city of New York, and also in one or more newspapers published in the State of North Carolina, and wherever else required by law, and to adjourn the said sale from time to time, in his discretion ; and if so adjourning, to make the same, without further notice, at the time and place to which the same may be so adjourned, and to make and deliver to the purchaser or purchasers of the said premises good and sufficient deed or deeds in law for the same in fee simple ; which sale, made as aforesaid, shall be a perpetual bar, both in law and equity, against the said party of the first part, its successors and assigns, and all other persons claiming or to claim the said premises, or any part or parcel thereof, by, from, through or under the said party of the first part, its successors or assigns ; and after deducting from the proceeds of such sale just allowances for all expenses thereof, including attorneys' and counsel fees, and all other expenses, advances or liabilities which may have been made or incurred by the said trustee in respect to the said lands or any part or parcel thereof, or in operating or maintaining the said railroad or any part thereof, or in managing the business thereof while in his possession, and in arranging for and completing the sale aforesaid, and payments which may have been made by him for taxes or assessments, and for charges or liens prior to the lien of these presents, on the said premises, or any part thereof, as well as compensation for his own services, to apply the said proceeds to the payment of the principal of such of the said bonds as may be at that time unpaid, whether or not the same shall have

previously become due, and the interest which shall at that time have accrued on the said principal, and be unpaid, without discrimination or preference, but ratably to the aggregate amount of such unpaid principal and accrued and unpaid interest; and if, after payment of the same in full, a surplus shall remain, to pay over such surplus to the said company, or render the same as any court of competent jurisdiction shall order.

And it is hereby declared and agreed, that the receipt of the said trustee shall be a sufficient discharge to the purchaser or purchasers of the premises which shall be sold as aforesaid, for his or their purchase money, and that such purchaser or purchasers, his or their heirs, executors or administrators, shall not, after payment thereof, and having such receipt, be liable to see to the application of such purchase money upon or for the trusts or purposes of these presents, or be in any manner whatever answerable for any loss, misapplication or non-application of such purchase money, or of any part thereof, or be obliged to inquire into the necessity, expediency or authority of or for any such sale.

ARTICLE FOURTH.—At any sale of the aforesaid property, or any part thereof, whether made by virtue of the power herein granted, or by judicial authority, the trustee may, in his discretion, bid for and purchase, or cause to be bidden for and purchased, the property so sold, or any part thereof, in behalf of the holders of the bonds secured by this instrument and then outstanding, in the proportion of the respective interests of such bondholders, at a reasonable price, if but a portion of the said property shall be sold; or if all of it be sold, at a price not exceeding the whole amount of such bonds then outstanding, with the interest accrued thereon.

ARTICLE FIFTH.—In case default shall be made in the

payment of any half year's interest on any of the said bonds, at the time and in the manner in the coupon issued therewith provided, the said coupon having been presented and the payment of the interest therein specified having been demanded, and that such default shall continue for the period of six months after the said coupon shall have become due, and been demanded as aforesaid, then and thereupon the principal of all the said bonds shall, at the election of the trustee, become immediately due and payable; but at any time before the interest in arrear shall be paid, a majority in interest of the holders of the said bonds may, by an instrument in writing under their hands and seals, instruct the trustee to declare the said principal to be due, or to waive the right so to declare, on such terms and conditions as such majority in interest shall deem proper, or may annul or reverse the election of the trustee: *Provided*, That no action of the trustee or bondholders shall extend to, or be taken to affect any subsequent default, or impair the rights resulting therefrom.

ARTICLE SIXTH.—The said trustee shall, also, in his discretion, have full power to convey or release, upon the written request of the North Carolina Railroad Company, any land acquired or held for the purposes of stations, depots, shops or other buildings, and shall also have power to convey or release as aforesaid, on like request, any lands or property which in his judgment shall not be necessary for use in connection with the said railroad, or which may have been held for a supply of fuel, gravel or other material; and also, to convey or release as aforesaid, on like request, any lands not occupied by the track which may become disused by reason of a change of the location of any station-house, depot, shop, or other adjacent building connected with the said railroad, or any part thereof, and such lands not occupied by the track and adjacent to such station-house, depot, shop or other building as the said company may deem ex-

pedient to disuse or abandon by reason of such change, and to consent to any such change and to such other changes in the location of the track, or depot, or other buildings as in his judgment shall have become expedient, and to make and deliver the said instruments necessary or proper to carry the same into effect ; but any lands which may be acquired for permanent use in substitution for any so released shall be conveyed to the trustee upon the trusts of these presents ; and the trustee shall also have full power to allow the said company, from time to time, to dispose of, according to its discretion, such portions of the equipment, machinery and implements at any time held or acquired for the use of the said railroad, as may have become unfit for such use, replacing the same by new, which shall be conveyed by the said company to the trustee, or to be otherwise made subject to the lien and operation of these presents.

ARTICLE SEVENTH.—On the first day of January, eighteen hundred and sixty-nine, and on the first day of January in each succeeding year thereafter, the said party of the first part, its successors and assigns, for the further security and ultimate redemption of the bonds intended to be secured hereby, for the creation of a sinking fund for that purpose, shall pay to the trustee for the time being, such a sum of money as at the periods, when the three classes of bonds above mentioned have respectively matured and become payable, shall, in the judgment of the trustee, furnish a fund sufficient wholly to pay off and discharge such bonds, and the trustee shall deposit the sum so paid over to him in the United States Trust Company in the city of New York, or in some other depository, which shall be in his judgment safe. And the said moneys, together with all accumulations of interest thereon, if any, which may actually come into the hands or within the disposal of the trustee, shall be laid out and invested by him in the purchase of bonds secured by these presents, upon the most favora-

ble terms on which they can be purchased. The bonds so purchased, with the coupons thereto annexed, shall be immediately cancelled by the said trustee, and a certificate of the numbers and amount of said bonds shall be immediately furnished under his hand by the said trustee to the President of the said North Carolina Railroad Company.

In case bonds secured by these presents cannot be purchased upon favorable terms, then the said trustee may, in his discretion, invest the said sinking fund moneys in such securities as may, from time to time, be recommended to him by the President of the said North Carolina Railroad Company for the time being, or by the board of directors of said company.

ARTICLE EIGHTH.—It is hereby declared and agreed, that it shall be the duty of the trustee to exercise the power of entry hereby granted, or the power of sale hereby granted, or both, or to proceed by suit or suits, in equity or at law, to enforce the rights of the bondholders in the several cases of default herein specified, in the manner and subject to the qualifications herein expressed, upon the requisition of bondholders herein required, as follows :

First.—If the default be as to interest or principal of any of the said bonds, or as to any payment into the sinking fund established by these presents, upon a requisition in writing, signed by any holder or holders of not less than one hundred of the said bonds, and a proper indemnification by such holder or holders to the trustee against the costs and expenses to be by them incurred, it shall be the duty of the trustee to enforce the rights of the bondholders under these presents by entry, sale, or suit or suits in equity, or at law, as he, being advised by counsel learned in the law, shall deem most expedient for the interests of the holders of said bonds ; subject to the power hereby declared of a majority in interest of the holders of said bonds, by a

requisition in writing under their hands and seals, to instruct the said trustee to waive such default upon the actual re-payment of the interest in arrear, with interest thereon, and the expenses incurred by reason thereof, or upon adequate indemnity as aforesaid, to enforce the rights of the bondholders by reason of such default: *Provided*, That no action of the said trustee or bondholders, or both, in waiving such default or otherwise, shall extend to or be taken to affect any subsequent default, or to impair the rights resulting therefrom.

Second.—If the default be in the omission of any act or thing required by these presents for the further assuring the title of the trustee to any property or franchises now possessed, or hereafter acquired, or in the omission to comply with any provision of these presents to be observed, performed or kept by the said company, then, and in either of such cases the trustee may enforce, in his discretion, and upon the requisition as aforesaid of a majority in amount the holders of the bonds secured by these presents, it shall be his duty to enforce the rights of the bondholders by reason of such default, subject to the power hereby declared of a majority in interest of the holders of the said bonds by requisition in writing, to instruct the said trustee to waive such default, or, upon adequate indemnity as aforesaid, to enforce the rights of the bondholders by reason thereof: *Provided*, That no action of the said trustee or bondholders, or both, in waiving such default or otherwise, shall extend to or be taken to affect any subsequent default, or to impair the rights resulting therefrom.

ARTICLE NINTH.—If the party of the first part shall well and truly pay, or cause to be paid, the principal of the said bonds when the same shall become due, and all interest thereon, when the same shall have become payable, and shall have been demanded, according to the tenor of said

bonds and of the coupons thereunto annexed, and shall also make the payments into the sinking fund aforesaid by these presents required, and comply with all other requirements hereof, according to the true intent and meaning of these presents, then and in that case, the estate, right, title and interest of the said party of the second part, and his successor in the trust hereby created, shall cease, determine, and become void, otherwise the same shall be and remain in full force and virtue.

ARTICLE TENTH.—It is mutually agreed by and between the parties hereto, that the word “trustee,” as used in these presents, shall be construed to mean the trustee for the time being, whether original or new. And it is mutually agreed by and between the parties hereto, that the said trustee shall be entitled to just compensation for all services which he may hereafter render in his trust, to be paid by the said company, or out of the income of the property, and for that purpose may at any time apply to the courts without notice to any person, except the said party of the first part, its successors or assigns; that the said trustee, or any successor, may resign, or discharge himself of the trust created by these presents by notice in writing to the said company, three months before such resignation shall take effect, or such shorter time as they may accept as adequate notice, and upon the due execution of the conveyances hereinafter required.

That in case at any time hereafter the said trustee, or any trustee hereafter appointed, shall die or resign, or become incapable or unfit to act in the said trust, a successor to such trustee shall be appointed by the said company, and the trustee so appointed shall thereupon become vested with all and singular the powers, authorities and estates granted to or conferred upon the party of the second part of these presents, and all the rights and interests requisite to enable him to execute the purposes of this trust, with-

out any further assurance or conveyance, so far as such effect may be lawful; but the trustee resigning, or becoming unfit to act, or the representatives of him so becoming incapable or dying shall immediately execute all such conveyances and other instruments as may be fit or expedient for the purpose of assuring the legal estate in the premises to the trustee so appointed; and upon the death, resignation or removal by any court of competent jurisdiction, of any trustee, or an appointment in his place in pursuance of these presents, all his powers and authorities by virtue hereof shall cease: *Provided, nevertheless,* And it is hereby declared and agreed, that in case it shall at any time hereafter prove impracticable, after reasonable exertions, to appoint, in the manner herein before provided, a successor in any vacancy which may have happened in said trust, application in behalf of all the holders of the bonds secured hereby, may be made by holders of the bonds secured hereby to the aggregate amount of one hundred thousand dollars, to any Circuit Court of the United States, for any Judicial District in which any part of the aforesaid railroads, or either of them, may be situate, or to any other court of competent jurisdiction, for the appointment of a new trustee.

And the said party of the first part, for itself, its successors or assigns, in consideration of the premises, and of one dollar to it duly paid by the said party of the second part, the receipt whereof is hereby acknowledged, hereby covenants and agrees to and with the said party of the second part, and his successors and assigns, that whenever, and as often as the said party of the first part, its successors or assigns, shall hereafter acquire any lands, or any equipment, or any other property or things of whatever name or nature, for use in connection with the said railroad, or any part of either thereof, or shall acquire any other property, rights, franchises or things whatsoever, the said party of the first part, its successors and assigns, shall and will ac-

quire, possess and hold the same, and every part and parcel thereof, upon and subject to the trusts of this indenture, until conveyance thereof, in pursuance of the covenant next hereinafter contained, shall be duly made and delivered to the said party of the second part, or his successors in the trust by these presents created.

And the said party of the first part, for itself, its successors and assigns, in consideration of the premises, and of one dollar to it duly paid by the said party of the second part, the receipt whereof is hereby acknowledged, hereby covenants and agrees to and with the said party of the second part, his successors and assigns, that the said party of the first part, its successors and assigns, shall and will, from time to time, and at all times hereafter, and as often as thereunto requested by the trustee under this indenture, execute, deliver and acknowledge all such further deeds, conveyances and assurances in the law for the better assuring unto the said party of the second part, and his successors in said trust, upon the trust herein expressed, the railroads, equipments, appurtenances, franchises, property and things herein before mentioned, and to which the said company is or may hereafter, for any reason, become entitled, or which the said company, its successors or assigns, may in any manner acquire, and also all other property, rights, franchises and things whatsoever which may hereafter be acquired by the said party of the first part, its successors or assigns, as by the said trustee, or his counsel learned in the law, shall be reasonably advised, devised or required. And it is also mutually understood and agreed between the parties hereto, that the said party of the second part, and his successors in said trusts, shall be accountable, liable or responsible for reasonable care and diligence only in the performance of the trusts hereby created, and in the management of the said estate and property in like manner as a bailee without reward, and shall not be accountable, liable or responsible for the acts of any agent, depository, or substi-

tute employed by him when such agent, depository or substitute shall have been selected with reasonable discretion.

In witness whereof, the said party of the first part has caused its corporate seal to be hereto affixed, and the same to be attested by the signatures of its President and two of its directors, and the said party of the second part has hereunto set his hand and seal to evidence his acceptance of the trust hereby created, the day and year first above written.

[SEAL.]

Sealed and delivered in }
the presence of }
.....
.....

MEMORANDUM,—Stamps, to the amount of fifty cents upon the five hundred dollar bonds, and one dollar upon the one thousand dollar bonds, are affixed to each bond herein secured upon its being issued.

APPENDIX.

DEED TO THE RICHMOND AND DANVILLE RAILROAD COMPANY.

THIS DEED, made this 11th day of September, 1871, by and between the North Carolina Railroad Company, a corporation incorporated by the State of North Carolina, of the one part, and the Richmond and Danville Railroad Company, a corporation incorporated by the State of Virginia, of the other part, witnesseth: That whereas it is provided by the nineteenth section of the charter of the North Carolina Railroad Company, "that the said company may, when they see fit, farm out their right of transportation over said road, subject to the rules above mentioned; and the said company, and every person who may have received from them the right of transportation of goods, wares, and produce, shall be deemed and taken to be a common carrier, as respects all goods, wares, produce, and merchandise, entrusted to them for transportation."

And whereas, by an act of the General Assembly of Virginia, approved July 11th, 1870, entitled "An act to amend the second section of an act entitled an act to authorize the Richmond and Danville Railroad Company to lease, hold, and operate the Piedmont Railroad, passed February 15th, 1866," the Richmond and Danville Railroad Company was duly authorized to make with any other railroad or transportation company any contract for the acquisition, by lease or otherwise, of the railway of such other company, its franchises and property, deemed judicious by the Richmond and Danville Railroad Company "in promoting a

connection business" between its own line or said Piedmont Railroad and other roads, with the full right on the part of the Richmond and Danville Railroad Company to hold, use and enjoy the same as the proper franchises and property of the Richmond and Danville Railroad Company :

And whereas, by virtue and in pursuance of said act of July 11th, 1870, the Board of Directors of the Richmond and Danville Railroad Company did, on the 11th day of July, 1871, adopt the following resolution :

"WHEREAS, by an act of the General Assembly of Virginia, approved July 11th, 1870, the Richmond and Danville Railroad Company was duly authorized to acquire, by lease or otherwise, the road, franchises, and property of any other railroad company which it might deem judicious to acquire to promote a connection business between its own or the Piedmont Railroad, and the road of any other railroad or transportation company; and to hold, use, and enjoy the same, as the proper franchises and property of the Richmond and Danville Railroad Company; and, whereas it is now deemed judicious by this board, in promoting a connection business with Southern railroads, that the Richmond and Danville Railroad Company should acquire, by lease, the entire railroad of the North Carolina Railroad Company, in the State of North Carolina, with all its works, property, and franchises, or a part of said road, property, works and franchises: Be it therefore!

"*Resolved*, That the President of this company be, and he is hereby, authorized and instructed to contract with the North Carolina Railroad Company for a lease of the entire railroad of the said North Carolina Railroad Company, with all its works, property, and franchises, or any part of said road, works, property, and franchises, for such term of years, and on such terms as to said President of the Richmond and Danville Railroad Company may seem

“ proper and judicious ; and he is hereby authorized, without further authority or instructions, to conclude and execute, in behalf of the Richmond and Danville Railroad Company, all contracts and deeds which may become necessary to carry into full effect the object of this resolution.”

And whereas, it now seems to the North Carolina Railroad Company to be fit and judicious, and to the advantage of the said company, to “ farm out ” their entire railroad, with all the franchises, rights of transportation, works and property thereunto belonging and used, and connected therewith, to the Richmond and Danville Railroad Company aforesaid for a term of years :

Now this deed further witnesseth, that in consideration of the several sums of money, rents, covenants and agreements hereinafter specified and agreed to be paid, kept and performed by the Richmond and Danville Railroad Company, the said party of the first part, namely, the North Carolina Railroad Company, hath. demised, let, hired, “ farmed out ” and delivered, and by these presents doth demise, let, hire, “ farm out ” and deliver to the said party of the second part, namely, the Richmond and Danville Railroad Company, the entire railroad of said party of the first part, with all its franchises, rights of transportation, works and property, including, among other things, its superstructure, road-bed and right of way incident thereto, situate in the State of North Carolina, and leading from the town of Goldsboro', in the county of Wayne, to the town or city of Charlotte, in the county of Mecklenburg, in said State ; and also the depot houses, shops, buildings, fixtures, engines, cars, and all franchises, rights and privileges, and other things, if any, of whatsoever kind or nature to the said North Carolina Railroad Company belonging, and necessary, incident and appurtenant to the free, easy and convenient operation and use of the railroad

leased hereby, and now or heretofore used in that behalf, for the full term of thirty (30) years from and after the 12th day of September, 1871, fully to be completed and ended, commencing on said 12th day of September, 1871. And the North Carolina Railroad Company aforesaid, for itself, its successors and assigns, doth covenant and agree with the Richmond and Danville Railroad Company aforesaid, its successors and assigns, that the latter company, its successors and assigns, shall, during the entire term aforesaid, have and enjoy quiet, peaceable and uninterrupted possession of all the property, rights, privileges, franchises and estate herein above "farmed out" and leased by the North Carolina Railroad Company aforesaid to the Richmond and Danville Railroad Company aforesaid. And for and in consideration of such demising, letting, hiring, "farming out" and delivering of said railroad, works and property, including road-bed, superstructure, right of way and of transportation, depots, houses, buildings, shops, fixtures, engines, cars, franchises and privileges, and other things incident and appurtenant thereto, the Richmond and Danville Railroad Company, on its part, doth covenant with and oblige itself to the North Carolina Railroad Company to pay to it a rent of two hundred and sixty thousand dollars (\$260,000) per annum, payable as follows, to wit: the sum of seventy-eight thousand dollars (\$78,000) on the first day of January, 1872, and thereafter the sum of one hundred and thirty thousand dollars (\$130,000) semi-annually, to wit: on the first days of July and January in each and every year of said term, until the same be fully completed and ended; said semi-annual payments to commence on the first day of July, 1872; and to secure the prompt and faithful payment of the said rent as above stipulated to be paid, the said party of the second part doth covenant with and oblige itself unto the said party of the first part, to deposit and keep on deposit in the First National Bank of Charlotte, North Carolina, or in such other bank or banks as may be

approved by the directors of the North Carolina Railroad Company, from year to year, and all the time pending said term, the sum of one hundred and thirty thousand dollars (\$130,000) in cash or its equivalent, at all times in United States bonds, or railroad company bonds, or other acceptable bonds ; which said sum of money, or its such equivalent, may be applied by the said party of the first part to the satisfaction and discharge of any such sum of money so semi-annually due and remaining unpaid ; and in case of any such last-named application of such deposit, then to renew the same from time to time as often as such application of any such deposit may become necessary. And the North Carolina Railroad Company aforesaid, for itself, its successors and assigns, doth covenant and agree with the Richmond and Danville Railroad Company aforesaid, its successors and assigns, that the latter company, as a full compliance with its covenant aforesaid to deposit railroad company or other acceptable bonds, may, if it shall elect so to do, deposit the following bonds, to wit : Of the first mortgage bonds of the Richmond and Danville Railroad Company, seventy thousand dollars (\$70,000) ; of the first mortgage bonds of the Piedmont Railroad Company, eighty thousand dollars (\$80,000) ; and of the first mortgage bonds of the Atlanta and Richmond Air-Line Railway Company, fifty thousand dollars (\$50,000) ; the deposit of which bonds the North Carolina Railroad Company, for itself, its successors and assigns, hereby agrees to regard and accepts as a full compliance with the covenant aforesaid ; but any bonds so deposited, shall be deposited and held in such manner as to enable the said Richmond and Danville Railroad Company to draw the interest accruing thereon from time to time as the same shall become due and payable : *Provided*, The said Richmond and Danville Railroad Company shall faithfully perform its covenant to pay the semi-annual rent aforesaid as it may accrue. And should the market value of said bonds so deposited at any time become reduced to a

sum less than one hundred and fifty thousand dollars (\$150,000), then the said Richmond and Danville Railroad Company agrees and binds itself to increase said deposit so as to keep the market value thereof at all times equal to the said sum of one hundred and fifty thousand dollars (\$150,000). And for the consideration aforesaid, the said party of the second part doth covenant with and oblige itself unto the said party of the first part to keep the said railroad, road-bed, superstructure, depots, buildings, houses, shops, engines, cars, fixtures, and other property of every kind and every part thereof so hired, let, "farmed out" and delivered, in equally as good condition and repair as when so delivered to it, or to keep, in the place of the same, like things of equally good condition and repair; and to return, at the end of the said term of thirty (30) years, or at the termination of said lease, to the said party of the first part the said railroad, road-bed, superstructure, depots, houses, buildings, shops, engines, cars, fixtures and other property, and all and every part thereof, in as good condition and repair as when so delivered to said party of the second part; or other property, when any part of said property shall be worn out, destroyed or abandoned, as good in quality and substance and in like good order and repair. And for the faithful keeping and performance of the covenant and obligation last aforesaid, the said party of the second part doth covenant with and oblige itself unto the party of the first part to execute to the said party of the first part a bond, good and sufficient at all times in the ability of its makers to pay, in the sum of one hundred and thirty thousand dollars (\$130,000), conditioned for the faithful keeping and performance of said last named covenant.

But the said party of the second part is to be at liberty at the termination of the lease aforesaid (its covenants aforesaid having been fully and in good faith complied with) to remove or otherwise dispose of as its own, any and all property and improvements placed upon the said North

Carolina Railroad, or used in connection therewith by said party of the second part, and not included in its said covenant with the party of the first part to maintain in repair and return in proper condition the road and property above leased; such removal or other disposition to be made within four months from and after the termination of said lease; and if not so removed, the same to become thereafter the absolute property of the North Carolina Railroad Company. And for the considerations aforesaid, the said party of the second part doth covenant with and oblige itself unto the said party of the first part, that the said party of the second part will not at any time during said term, fix or establish the rates of freights called "local freight," at a higher average price or rate from station to station than the average rate for "local freight" tariff, as fixed, established, and printed by the said party of the first part on the 1st day of September, A. D. 1869, and the local passenger fare shall not exceed the local rates as fixed and established on the date last above named. And for the consideration aforesaid, the said party of the second part, for itself, its successors and assigns, doth covenant with and oblige itself unto the said party of the first part, to indemnify and save harmless the said party of the first part, against and from any and all damages which may be recovered from or against it, according to law, by reason of any failure of the said party of the second part to perform, in all things, its duties and obligations as a common carrier, whereby the said party of the first part may become liable in law to any party injured, or sustaining injury, in his or her person or property. And the said party of the first part, for the consideration aforesaid, for itself, its successors and assigns, doth covenant with and oblige itself unto the said party of the second part, its successors and assigns, that its stockholders and directors will not do anything or take any action, as such stockholders and directors, that may or can interfere in any way whatsoever with the free use and operation and convenience

of said railroad and other property so hired, let, "farmed out," and delivered by the said party of the second part, according to the terms and intents of these presents.

It is further agreed between the said parties, that if the Richmond and Danville Railroad Company shall make default in the payment of the sums of money they have agreed to pay on the 1st day of January, 1872, and semi-annually thereafter, for thirty days or more after the same shall become due and payable, or if they make such default in the payment of any part thereof, or if they fail to keep on deposit such sum of money, or its equivalent in bonds, as they have covenanted with and obliged themselves to the North Carolina Railroad Company to do, then the said North Carolina Railroad Company shall, upon giving to the Richmond and Danville Railroad Company at least thirty days' notice, have the right, should the Richmond and Danville Railroad Company still remain in default, to dispose of and apply the deposit to any unpaid rent, and to enter upon and resume possession of said railroad and all said other property, rights, franchises, &c., of every kind and description: *Provided, nevertheless*, this stipulation shall not be so construed as to abridge or discharge any of the said covenants which require and provide for the payment of such semi-annual rent, and for every part thereof and for the return of the said railroad and other property, according to the terms of such covenants, at any termination of said term: *And provided further*, that the same shall be so construed that the said party of the first part shall be entitled to all the rent due at any termination of said lease, and to have the said road and other property of every kind returned as aforesaid to the said party of the first part, or damages for any failure to so return the same, not exceeding the sum of two hundred and sixty thousand dollars, (\$260,000).

It is further agreed by and between the said parties, that a fair valuation and inventory of said railroad, and all and every part and parcel of said other property, shall be made

and taken at once by two competent experts, one to be selected by the party of the first part, and the other by the party of the second part, who shall, in case of disagreement, select an umpire ; and the valuation and inventory so made and taken shall be final, and shall be kept recognized, and acted upon at all times; and annually, in the first week of October of each year, a like valuation and inventory shall be made and taken by like competent experts and their umpire, to be chosen as aforesaid ; and in case said railroad and said property are not in like good condition and repair as provided in the several covenants as aforesaid, then the said party of the second part may have until the first day of January next after such default so to make good said railroad and said other property ; and the said party of the first part shall not have the right to enter and take possession of said railroad and other property, for such default and breach of such covenants, until the said first day of January next after such default; and not then on such account, if such default in the meantime shall be repaired, to the satisfaction of said experts or their said umpire.

It is further agreed, by and between said parties, that at any termination of said lease and term, whether by its own limitation or otherwise, the said railroad and all the said other property of every kind whatsoever, shall be valued, and an inventory thereof taken by like competent experts and their umpire to be selected as aforesaid.

It is further agreed, by and between said parties, that if the said lease shall be determined otherwise than by its own limitation, the said party of the first part shall only be entitled to have the rent due at such termination thereof, and to have said railroad and all and every part and parcel of said property so returned to it : or damages for failure so to do, not exceeding the sum of two hundred and sixty thousand dollars (\$260,000), and indemnity for any loss it may have sustained by reason of any default or neglect of the said party of the second part, as common carriers.

It is further agreed, by and between said parties, that the said party of the second part shall not be required to pay any State or other taxes on account of said railroad or other property, or any part thereof, exceeding the sum of ten thousand dollars (\$10,000) per annum, during said term ; but the said party of the second part doth covenant with and oblige itself unto the said party of the first part to pay taxes to the said State of North Carolina to a sum not exceeding ten thousand dollars (\$10,000) per annum during said term, if such and so much taxes shall be lawfully imposed on said railroad and other property, or any part thereof.

It is further understood and agreed by and between said parties, that the said party of the second part shall not be required to make good any loss by fire or other unavoidable casualty, other than the loss or injury from such cause to the roadway, superstructure, engines, cars and depot buildings ; nor shall the said party of the second part be required to make good any loss or injury, either to the property last above designated or any other property leased hereby, if such loss or injury result from the act of God or the public enemy.

It is further agreed by and between the parties, that the said party of the second part shall have leave to change any shops, tracks, houses and other things in such way as to promote the convenience of shipment of freights, travel, and the safety of the road and said property, without charge to the party of the first part ; and also shall have leave, without charge to the party of the first part as aforesaid, to change the gauge of the said railroad track ; but should the Richmond and Danville Railroad Company change the gauge of said railroad track, they do hereby covenant and agree with the North Carolina Railroad Company again to change the gauge of said road to what it now is, at the termination of said lease, if required so to do by the North Carolina Railroad Company.

In witness whereof, the said North Carolina Railroad Company, by WILIAM A. SMITH, its President, acting for and on its behalf, and the said Richmond and Danville Railroad Company, by A. S. BUFORD, its President, acting for and on its behalf, have caused the corporate seals of their respective corporations to be affixed hereto, and the same to be signed by their respective Presidents aforesaid.

THE NORTH CAROLINA RAILROAD COMPANY,
By W. A. SMITH, *President*.

Official signature of }
Pres't N. C. R. R. Co. } [L. S.]
CHARLES M. CRUMP, *Aud. & Sec.*

THE RICHMOND & DANVILLE R. R. COMPANY,
By A. S. BUFORD, *President*.
[L. S.]

Witness: G. M. LEA.







